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Filing date: **09/25/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202219
Party	Plaintiff Eat Right Foods Ltd.
Correspondence Address	SIMONE M KATZ ONEILL SHARTISIS FRIESE LLP ONE MARITIME PLAZA, 18TH FLOOR SAN FRANCISCO, CA 94111 UNITED STATES skatz@sflaw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Joseph V. Mauch
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Signature	/Joseph V. Mauch/
Date	09/25/2012
Attachments	Notice of Reliance No.46.pdf (9 pages)(3990415 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EAT RIGHT FOODS LTD.,

Opposer,

v.

KEVIN LEVILLE,

Applicant.

Opp. No.: 91202219

Ser. No.: 77/868,068

Date of Publication:
April 26, 2011

OPPOSER EAT RIGHT FOODS LTD.'S
NOTICE OF RELIANCE NO. 46

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to 37 C.F.R. § 2.122(e) and 704.03(b)(2) of the Trademark Trial and Appeal Board Manual of Practice and Procedure, Opposer Eat Right Foods Ltd. provides Notice of Reliance on Third-Party Application, Serial No. 85/606,821, obtained from the Trademark Status and Document Retrieval database accessible on the United States Patent and Trademark Office's website, submitted herewith.

Dated: September 25, 2012.

Respectfully Submitted,
SHARTSIS FRIESE LLP

By: _____



JOSEPH V. MAUCH

Attorneys for Opposer
EAT RIGHT FOODS LTD.

Trademark/Service Mark Application, Principal Register

Serial Number: 85606821

Filing Date: 04/24/2012

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85606821
MARK INFORMATION	
* MARK	<u>GLUCERNA PLUS</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	GLUCERNA PLUS
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
* OWNER OF MARK	Abbott Laboratories
* STREET	100 Abbott Park Road
* CITY	Abbott Park
* STATE (Required for U.S. applicants)	Illinois
* COUNTRY	United States
* ZIP/POSTAL CODE (Required for U.S. applicants only)	60064
PHONE	847-937-5121
EMAIL ADDRESS	trademarks@abbott.com
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Illinois
GOODS AND/OR SERVICES AND BASIS INFORMATION	

INTERNATIONAL CLASS	005
* IDENTIFICATION	Nutritional supplements; liquid nutritive supplements for oral or tube feeding; dietary and nutritionally fortified cereal-based food products adapted for medical use; meal replacement bars; nutrition bars for use as a dietary supplement; nutritional energy bars for use as a meal replacement; nutritional shakes for use as a meal replacement; nutritional drink mix for use as a meal replacement; nutritional drink mix for use as a dietary supplement; and nutritionally fortified beverages.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	029
* IDENTIFICATION	Protein based nutrient-dense snack bars.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	030
* IDENTIFICATION	Nutritional processed cereal, namely, breakfast cereal; shakes.
FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 1481364, 3447775, 3495568, and others.
ATTORNEY INFORMATION	
NAME	Cheryl A. Withycombe
ATTORNEY DOCKET NUMBER	T65377
FIRM NAME	Abbott Laboratories
INTERNAL ADDRESS	D377/AP6A
STREET	100 Abbott Park Road
CITY	Abbott Park
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60064-6008
PHONE	

PHONE	847-937-5121
FAX	847-935-6552
EMAIL ADDRESS	trademarks@abbott.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	David H. McDonald, Elisa M. Valenzona, Michele H. Bowman, Paul Yasger
CORRESPONDENCE INFORMATION	
NAME	Cheryl A. Withycombe
FIRM NAME	Abbott Laboratories
INTERNAL ADDRESS	D377/AP6A
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FAX	847-935-6552
EMAIL ADDRESS	trademarks@abbott.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	3
FEE PER CLASS	325
*TOTAL FEE DUE	975
*TOTAL FEE PAID	975
SIGNATURE INFORMATION	
SIGNATURE	/Cheryl A. Withycombe/
SIGNATORY'S NAME	Cheryl A. Withycombe
SIGNATORY'S POSITION	Attorney of record, Illinois bar member
DATE SIGNED	04/24/2012

Trademark/Service Mark Application, Principal Register

Serial Number: 85606821

Filing Date: 04/24/2012

To the Commissioner for Trademarks:

MARK: GLUCERNA PLUS (Standard Characters, see [mark](#))

The literal element of the mark consists of GLUCERNA PLUS.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Abbott Laboratories, a corporation of Illinois, having an address of
100 Abbott Park Road
Abbott Park, Illinois 60064
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 005: Nutritional supplements; liquid nutritive supplements for oral or tube feeding; dietary and nutritionally fortified cereal-based food products adapted for medical use; meal replacement bars; nutrition bars for use as a dietary supplement; nutritional energy bars for use as a meal replacement; nutritional shakes for use as a meal replacement; nutritional drink mix for use as a meal replacement; nutritional drink mix for use as a dietary supplement; and nutritionally fortified beverages. Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 029: Protein based nutrient-dense snack bars. Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 030: Nutritional processed cereal, namely, breakfast cereal; shakes. Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant claims ownership of U.S. Registration Number(s) 1481364, 3447775, 3495568, and others.

The applicant's current Attorney Information:

Cheryl A. Withycombe and David H. McDonald, Elisa M. Valenzona, Michele H. Bowman, Paul

Yasger of Abbott Laboratories

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Abbott Park, Illinois 60064-6008
United States

The attorney docket/reference number is T65377.

The applicant's current Correspondence Information:

Cheryl A. Withycombe
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847-937-5121(phone)
847-935-6552(fax)
trademarks@abbott.com (authorized)

A fee payment in the amount of \$975 has been submitted with the application, representing payment for 3 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Cheryl A. Withycombe/ Date Signed: 04/24/2012
Signatory's Name: Cheryl A. Withycombe
Signatory's Position: Attorney of record, Illinois bar member

RAM Sale Number: 5456
RAM Accounting Date: 04/25/2012

Serial Number: 85606821
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TEAS Stamp: USPTO/BAS-130.36.62.225-2012042416242998

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GLUCERNA PLUS